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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.H. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

A.H.,

Defendant and Appellant.

B289290

(Los Angeles County
Super. Ct. No. 17CCJP02101A-C)

APPEAL from orders of the Superior Court of Los Angeles County, Stephen Marpet, Juvenile Court Referee. Affirmed.

Janette Freeman Cochran, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Plaintiff and Respondent.

* * * * *

Mother A.H. appeals the juvenile court's jurisdictional and dispositional orders for her three youngest daughters, ranging in age from seven to 11. Mother has two teenaged daughters who reside with their father, who are not at issue in this appeal (separate proceedings were initiated as to them). Mother contends substantial evidence does not support the court's jurisdictional findings under subdivisions (a), (b), or (j) of section 300 of the Welfare and Institutions Code.¹ She also contends the order removing her daughters from her care was not supported by substantial evidence, and that the Los Angeles County Department of Children and Family Services' (Department) reports and court's findings do not support a conclusion that there were no reasonable means to protect the children in her care. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The family came to the attention of the Department following a domestic violence incident between mother and L.C., the father of the youngest two children.

On October 28, 2017, police responded to a domestic violence call at the family home. When they arrived, mother and her three children were huddled together, "crying and screaming." The youngest child had suffered an asthma attack, and mother wanted to take her to the hospital. L.C. took mother's keys and would not allow her to take the child to the hospital. Mother and L.C. argued, and L.C. began choking mother. The two older children tried to intervene, and L.C. pushed them to the ground, causing the children to hit their

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise noted.

heads on the floor. L.C. was arrested for inflicting corporal injury on a spouse or cohabitant and child endangerment. Mother obtained an emergency protective order.

The family has an extensive history with the Department, with nearly 20 referrals spanning from 2005 until 2017. The juvenile court took jurisdiction over mother's four older children in 2011, based on inappropriate discipline by mother, and domestic violence between mother and L.C. The court terminated jurisdiction as to the oldest two children, giving sole physical custody to their father. Jurisdiction was terminated as to the two younger children in 2013, with the children placed in mother's care. In 2015, the court took jurisdiction over the youngest three children (the children who are the subject of this case), based on inappropriate discipline by mother, and mother's unresolved history of substance abuse. The family received family maintenance services.

Mother was interviewed by the Department on November 7, 2017. She denied she was romantically involved with L.C., or that he lived with her and the children. She admitted L.C. was a signatory to the lease for her apartment, because she could not otherwise qualify. He sometimes spent the night at the home. She allowed him access to the children because she could "see a change" in him following his release from prison.

Mother admitted she and L.C. argued about their youngest child going to the hospital. She denied that he choked her, and claimed he accidentally knocked the other children to the floor. Mother obtained a temporary restraining order against L.C. on November 3, 2017. She did not want to be in a relationship with L.C., and did not know his current whereabouts.

The Department was concerned because mother had “told the Department on multiple occasions that she is no longer in a relationship with the father, but then it turns out they are.” In fact, mother bailed L.C. out of jail following his arrest.

All of the children reported they felt safe with mother.

L.C. was interviewed on November 16, 2017. He claimed he and mother had a “misunderstanding” and denied becoming physical with mother or the children. L.C. stated he is “done” with mother. He agreed to abide by the restraining order.

The Department conducted a Child and Family Team Meeting (CFT) on November 20, 2017. Mother acknowledged that in her previous dependency case she minimized or concealed the domestic violence between her and L.C. because she believed it would resolve itself. She is no longer in love with L.C., and is “ready for a change.” She was willing to do anything to ensure the safety of her children.

Following the CFT meeting, the Department determined that mother and the children would benefit from counseling and domestic violence services. The Department believed the children were doing well in mother’s care, and that removing them from mother would be “detrimental.”

On November 27, 2017, L.C. reported that he had moved to Arizona with family members, and did not intend to return to California.

At the November 30, 2017 detention hearing, the court allowed the children to remain in mother’s care, and ordered the Department to provide mother with family maintenance services.

That same day, the Department received another referral, concerning one of mother’s teenaged daughters. On November 21, mother was at a liquor store with 16-year-old

maternal aunt, as well as her teenaged daughter. Mother accused maternal aunt of having an affair with L.C., grabbed maternal aunt's face, and the two engaged in a physical fight. When the daughter intervened, mother kicked her. The daughter's arm was sprained during the incident, and required medical attention.

Both of mother's teenaged daughters were concerned that mother would not stay away from L.C., and had seen mother with black eyes as recently as 2017.

On December 12, 2017, the Department filed a section 300 petition concerning mother's oldest daughters (which is not at issue in this appeal).

On December 5, 2017, the Department obtained an ex parte order removing the three youngest children from mother's care because of the November 21 incident.

The Department's December 8, 2017 detention report noted that "[r]easonable efforts were made to prevent or eliminate the need for the child(ren)'s removal from the home: The following pre-placement preventative services were provided but were not effective in preventing or eliminating the need for removal of the child from the home. [¶] Counseling, Case Management, Parent Training, Other Services." The report also identified available services which could prevent the need for further detention, such as individual counseling, domestic violence counseling, anger management classes, case management, parent training, and mental health services.

On December 8, 2017, the court detained the children from mother, pursuant to section 385.

According to the Department's January 24, 2018 jurisdiction/disposition report, mother denied that there was any

recent domestic violence between her and L.C. She told the Department that the two just “argue[d].” She did admit that there had been domestic violence incidents in the past, in 2009 and 2015, but that “we were good after that.”

The report noted that the following “reasonable efforts” were made: emergency response services, crisis intervention, placement services, referrals to community resources, HUB, MAT (Multidisciplinary Assessment Team), jurisdiction/disposition interviews, and drug testing. The report noted that mother was receiving counseling services from Shields with Families.

In a February 2018 last minute information for the court, the Department reported that L.C. had moved back to Los Angeles.

Mother’s therapist reported that mother completed her initial assessment in October 2017, and had four individual counseling sessions between November 2017 and February 2018. The counseling sessions did not address domestic violence or anger management issues.

At the February 23, 2018 jurisdictional hearing, the court sustained allegations under section 300, subdivisions (a), (b), and (j) that mother and L.C. have a history of engaging in violent altercations, and that on October 28, 2017, L.C. pushed and choked mother in the presence of the three youngest children, and that when two of the children intervened, they were pushed to the ground and injured. Mother failed to protect the children by allowing L.C. into her home, and giving him unlimited access to the children.

The Department’s April 2018 last minute information noted that mother had not received any counseling services since February 2018 due to problems with her health insurance.

At the April 6, 2018 dispositional hearing, both mother and minors' counsel asked the court to return the children to mother. The court expressed grave concerns about the incident between mother, maternal aunt, and mother's teenaged daughter, and stated its view that this conduct put the younger children at risk. The court also stated its view that mother had done nothing to address these issues since November 2017.

The court removed the children from mother pursuant to section 361, subdivision (c), finding clear and convincing evidence there was a substantial danger to the children. The court found that the Department made "reasonable efforts" to prevent removal "but there are no services available to prevent further detention." The court found there were no "reasonable means" to protect the children without removing them.

This timely appeal followed.

DISCUSSION

1. Jurisdiction

Mother contends the findings under section 300, subdivisions (a), (b) and (j) are unsupported. It is well settled that the failure to protect a child from the substantial risk of encountering domestic violence supports jurisdiction under section 300, subdivision (b). (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599; *In re Heather A.* (1996) 52 Cal.App.4th 183, 194.) Where one basis for jurisdiction is supported by substantial evidence, an appellate court need not consider the sufficiency of evidence to support other bases. (*Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72; see also *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 ["[A] reviewing

court may affirm a juvenile court judgment if the evidence supports the decision on any one of several grounds”].)²

Substantial evidence supports the court’s exercise of jurisdiction here. (See *In re Cole C.* (2009) 174 Cal.App.4th 900, 916 [discussing substantial evidence standard of review].) The children had previously been dependents of the court because of domestic violence between mother and L.C. The older children had seen mother with black eyes, and were concerned that mother would not stay away from L.C., even with a restraining order. Mother had a history of minimizing or concealing the domestic violence from the Department, continued to minimize L.C.’s abuse, and was not addressing domestic violence in her counseling, of which mother had only participated in four sessions. Two of the younger children had been injured when they tried to intervene in the incident giving rise this dependency case. And, during the pendency of this case, mother engaged in a violent altercation with two minors, her teenaged daughter and maternal aunt, concerning maternal aunt’s relationship with L.C.

2. Disposition

Mother contends the Department did not meet its burden of proof for removal of the children, reasoning that its reports did not describe its reasonable efforts to prevent removal, and that the court did not determine whether reasonable efforts were made to prevent removal, or whether alternatives to removal existed which would protect the children. We are not persuaded.

² Mother asks the court to reach all bases of the court’s jurisdiction, under section 300, subdivisions (a), (b), and (j), but has not articulated how she is prejudiced by the court’s findings, when they are all based on the same facts and allegations.

A child may not be removed from a parent or guardian unless there is clear and convincing evidence of “substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor’s physical health can be protected without removing the minor from the minor’s parent’s or guardian’s physical custody.” (§ 361, subd. (c)(1).) A juvenile court’s removal order is reviewed under the substantial evidence standard of review, notwithstanding the evidentiary standard used at trial. (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193; see also *In re E.B.* (2010) 184 Cal.App.4th 568, 578.)

California Rules of Court, rule 5.690(a)(1)(B)(i) requires the Department to include in its report to the court a “discussion of the reasonable efforts made to prevent or eliminate removal” Section 361, subdivision (d) (now subdivision (e), see Stats. 2018, ch. 833, § 27) requires the juvenile court to “‘make a determination as to whether reasonable efforts were made to prevent or to eliminate the need for removal of the minor from his or her home The court shall state the facts on which the decision to remove the minor is based.’” (See also *In re Ashly F.* (2014) 225 Cal.App.4th 803, 808.)

We find no deficiency with the Department’s reports, or the juvenile court’s findings. The facts detailed *ante* support the court’s removal order. And, in any event, mother has not articulated how she was prejudiced by any purported deficiency in the reports or findings. On this record, there is no basis to infer that if mother were offered any other or different services, the children could have safely remained in her care. (See *In re*

Ashly F., supra, 225 Cal.App.4th at p. 811; *R.H. v. Superior Court* (2012) 209 Cal.App.4th 364, 374.)

DISPOSITION

The orders are affirmed.

GRIMES, Acting P. J.

WE CONCUR:

STRATTON, J.

RUBIN, J.*

* Presiding Justice of the Court of Appeal, Second Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.